

Appl. No. : 10/025,324
Filed : December 18, 2001

REMARKS

By this paper, Claims 3-13, and 22 have been canceled. Claims 16 and 17 have been amended. Claims 17-21 remain unchanged by this Amendment. Claims 23 - 28 have been added. Hence, by this paper, Claims 16-21 and Claims 23-28 are presented for further examination.

I. Rejection of Claim 22 under 35 U.S.C. § 102/103

One page 2 of the Office Action of March 26, 2004, the Examiner rejected Claim 22 under 35 U.S.C. §102/103 as being unpatentable over U.S. Patent No. 6,299,653 to Hoshi, et al. Applicant has canceled Claim 22 rendering this rejection moot.

II. Rejection of Claims 16-20 under 35 U.S.C. § 102 under § 102(e).

On page 2 of the Office Action, the Examiner rejected Claims 16-20 as being anticipated by Amano et al. (U.S. Patent No. 6,235,433) [hereinafter *Amano*]. For the reasons set forth below, Applicant respectfully disagrees with the Examiner's findings and determination that Claims 16-20 are anticipated by *Amano*.

A. The Law of Anticipation

Anticipation under Section 102 can be found only if a reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775 (Fed. Cir. 1985). More particularly, a finding of anticipation requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). "To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

B. Rejection of 16-20 as being anticipated by *Amano*

The Examiner argued the position that *Amano* anticipates Claim 16 because, according to the Examiner, *Amano* discloses “secondary batteries which include a gel electrolyte comprising a matrix polymer and an electrolyte solution in the matrix polymer.” *Office Action* at page 2-3. However, Applicant submits that neither the portions of *Amano* cited by the Examiner in rejecting Claim 16, nor any other portions of *Amano* teach or suggest a method of producing a secondary battery comprising “introducing the amount of electrolyte solution and the amount of monomer into the final battery form; and crosslinking the monomer” as recited, *inter alia*, in Claim 16, as amended. Rather, *Amano* discloses an electrolyte that is polymerized, “cut into a definite form,” and “used for the preparation of a secondary battery.” *Amano*, Specification, col. 12, line 10-13. Therefore, Applicant submits that *Amano* fails to anticipate or render obvious the invention recited in Claim 16, as amended, because *Amano*, in disclosing a stable gel electrolyte that is crosslinked and cut into shape prior to being placed into a secondary battery, fails to teach or suggest “introducing the amount of electrolyte solution and the amount of monomer into the final battery form; and crosslinking the monomer” as recited, *inter alia*, in Claim 16, as amended.

The method of Claim 16, as amended, of producing a nonaqueous secondary battery has a number of advantages. For example, the additional steps of cutting and manipulating the gel electrolyte in *Amano* are eliminated. In addition to cost and time advantages associated with fewer steps, the risk of damage or contamination to the gel electrolyte during assembly of the electrolyte into the battery is eliminated entirely. Furthermore, secondary batteries may comprise electrolytes that form films too fragile for such manipulation. For example, electrolytes that form films that are too thin, or that are otherwise prone to damage such as tearing, may be introduced into the final battery form and crosslinked to form a secondary battery without regard to the fragility of the final electrolyte. In contrast, *Amano* discloses forming a “self-supporting, and tough” electrolyte. *Amano*, Specification, col. 12, line 8-10. Thus, *Amano* clearly does not suggest the method of Claim 16, as amended.

Accordingly, Applicant submits that Claim 16, as amended, is allowable, and requests that the rejection of Claim 16 be withdrawn. Since each of Claims 17-20 depends either directly or indirectly on Claim 16, the Applicant submits that those claims are also allowable.

III. Rejection of Claim 21 under 35 U.S.C. § 103

On page 4 of the Office Action, the Examiner rejected Claim 21 under 35 U.S.C. § 103(a) as being unpatentable over *Amano*. In particular, the Examiner took the position that *Amano* discloses all elements of Claim 21 except that *Amano* “does not specifically recite ethylene dimethacrylate as the low molecular weigh [sic] compound functioning as a crosslinking agent.” *Office Action* at 4. Rather, after indicating that *Amano* discloses the use of compounds with two polymerizable functional groups, the Examiner took the position that it would be obvious to one of ordinary skill in to art to recognize that ethylene dimethacrylate is such a compound. *Id.*

As set forth above, Applicant submits that *Amano* fails to disclose all limitations of Claim 16, as amended. Further, Applicant submits that it would not have been obvious to one of ordinary skill in the art to recognize the invention of Claim 16, as amended, in view of teachings of *Amano*. Thus, because Claim 21 depends from Claim 16, as amended, Applicant submits that *Amano* fails to teach or suggest all limitations in each of Claim 21. Moreover, Applicant submits that no motivation to combine has been shown. Applicant therefore submits that Claim 21 is also allowable.

IV. New Claims 23-28

By this paper, Claims 23-28, have been added. Applicant submits that each of these newly added claims is allowable for at least the reasons set forth above.

V. Conclusion

Applicant has endeavored to address all of the Examiner’s concerns as expressed in the Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks do not narrow the claims, but rather are made in order to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the clarity of the claims to particularly and distinctly point out the invention to those of skill in the art. Finally, Applicant submits that the claim limitations above represent only illustrative distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.

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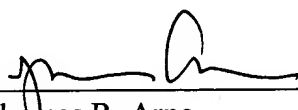
In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and, particularly, that all claims be allowed. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully invited to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 7/26/04

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